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**CUMULATIVE**  
**POCKET SUPPLEMENT**

**IDAHO CODE**

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Idaho Code Commission

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COMMISSIONERS

TITLES 58-62

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## PUBLISHER'S NOTE

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Amendments to laws and new laws enacted since the publication of the bound volume down to and including the 2013 regular session are compiled in this supplement and will be found under their appropriate section numbers.

This publication contains annotations taken from decisions of the Idaho Supreme Court and the Court of Appeals and the appropriate federal courts. These cases will be printed in the following reports:

Idaho Reports  
Pacific Reporter, 3rd Series  
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Title and chapter analyses, in these supplements, carry only laws that have been amended or new laws. Old sections that have nothing but annotations are not included in the analyses.

Following is an explanation of the abbreviations of the Court Rules used throughout the Idaho Code.

I.R.C.P.	Idaho Rules of Civil Procedure
I.R.E.	Idaho Rules of Evidence
I.C.R.	Idaho Criminal Rules
M.C.R.	Misdemeanor Criminal Rules
I.I.R.	Idaho Infraction Rules
I.J.R.	Idaho Juvenile Rules
I.C.A.R.	Idaho Court Administrative Rules
I.A.R.	Idaho Appellate Rules

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## **USER'S GUIDE**

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To assist the legal profession and the layperson in obtaining the maximum benefit from the Idaho Code, a User's Guide has been included in the first, bound volume of this set.



## ADJOURNMENT DATES OF SESSIONS OF LEGISLATURE

Year	Adjournment Date
2013 .....	April 4, 2013





**TITLE 58**  
**PUBLIC LANDS**

**CHAPTER 3**  
**APPRAISEMENT, LEASE, AND SALE OF LANDS**

**58-310A. Legislative findings and purposes — Leases of single family, recreational cottage sites and homesites not subject to conflict application and auction provisions.**

**JUDICIAL DECISIONS**

**Constitutionality.**

This section, which exempts cottage site leases from conflict auctions, violates Idaho Const., Art. IX, § 8, because the word “dis-

posal” in that constitutional provision covers any sale or lease. *Wasden v. State Bd. of Land Comm’n*, — Idaho —, 280 P.3d 693 (2012).



## TITLE 59

### PUBLIC OFFICERS IN GENERAL

CHAPTER.

- 11. SOCIAL SECURITY BENEFITS, § 59-1101.
- 13. PUBLIC EMPLOYEE RETIREMENT SYSTEM,  
§§ 59-1302, 59-1324, 59-1391.

### CHAPTER 11

#### SOCIAL SECURITY BENEFITS

SECTION.

- 59-1101. Acceptance of benefits of federal social security act.

**59-1101. Acceptance of benefits of federal social security act. —**

(1) The state of Idaho on behalf of all of its officers and employees and the officers and employees of all of its agencies, counties and cities and of any and all of its municipal corporations, political subdivisions, governmental entities, independent bodies corporate and politic or any legal entity independently or collectively providing governmental functions and created pursuant to Idaho Code, hereby accepts the benefits of the provisions of the federal social security act, of 1935, as amended thereto, whenever the provisions of such act are extended to embrace their officers and employees; provided however, that any services performed pursuant to 42 U.S.C. section 418(c)(6) shall not be considered as employment within the meaning of this chapter.

(2) Pursuant to the provisions of 42 U.S.C. section 418(d)(1), (d)(3) and (l), the benefits described in this section are extended to police officer positions and firefighter positions covered by a retirement system.

(a) For the purposes of social security coverage and the provisions of this section, a "police officer position" means a paid position existing in the regularly organized police department or police force of the state or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of one (1) or more of the characteristics of maintaining order, preventing and detecting crime and enforcing the laws of the state or any political subdivision.

(b) For the purposes of social security coverage and the provisions of this section, a "firefighter position" means a paid position existing in the organized fire department, district or association of incorporated municipalities, counties, state agencies or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of the prevention, pre-suppression, suppression and extinguishment of fires. A "firefighter position" includes positions such as a fire marshal whose principal accountability is to investigate the cause and origin of fires and includes a fire chief, fire captain and fire warden whose primary position and principal accountability requires direct supervision

of employees engaged in the prevention, pre-suppression, suppression and extinguishment of fires. A “firefighter position” does not include an employee who may be required on occasion to engage in firefighter activities as a secondary requirement of the position.

(c) The terms “police officer position” and “firefighter position” do not include services in positions that, although connected with police officer and firefighter functions, are not police officer or firefighter positions.

**History.**

1949, ch. 285, § 1, p. 586; am. 1951, ch. 295, § 1, p. 652; am. 1953, ch. 81, § 1, p. 105; am.

1953, ch. 190, § 1, p. 299; am. 1955, ch. 14, § 1, p. 17; am. 1961, ch. 86, § 1, p. 117; am. 2013, ch. 334, § 1, p. 871.

**STATUTORY NOTES**

**Amendments.**

The 2013 amendment, by ch. 334, rewrote the section to the extent that a detailed comparison is impracticable.

in subsection (1), is codified as 42 U.S.C.S. § 301 et seq.

**Federal References.**

The social security act of 1935, referred to

**Effective Dates.**

Section 2 of S.L. 2013, ch. 334 declared an emergency. Approved April 11, 2013.

**CHAPTER 13**

**PUBLIC EMPLOYEE RETIREMENT SYSTEM**

**SECTION.**

59-1302. Definitions.

59-1324. Transfer of moneys from state community college account.

**SECTION.**

59-1391. Definitions.

**59-1302. Definitions.** — (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) “Active member” means any employee who is not establishing the right to receive benefits through his or her employer’s participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) “Accumulated contributions” means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) “Actuarial equivalent” means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) “Actuarial tables” means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) “Alternate payee” means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.



(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D)(a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

- (i) The highest average salary; and
- (ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:
  - A. Military service;
  - B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and
  - C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment be-

coming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

- (a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country other than the United States, or from an intentionally self-inflicted injury; and
- (b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14)(A) "Employee" means:

- (a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer;

- (b) Elected officials or appointed officials of an employer who receive a salary;
  - (c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days; or
  - (d) A person receiving differential wage payments as defined in 26 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.
- (B) "Employee" does not include employment as:
- (a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or
  - (b) A person whose employment with any employer does not total five (5) consecutive months; or
  - (c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or
  - (d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or
  - (e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or
  - (f) A person making contributions to the director of the office of personnel management under the United States civil service system retirement act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or
  - (g) A person not under contract with a school district or charter school, who on a day to day basis works as a substitute teacher replacing a contracted teacher and is paid a substitute wage as established by district policy or who, on a day to day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy; or
  - (h) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, county, irrigation district, cemetery district or mosquito abatement district when the city, county, irrigation district, cemetery district or mosquito abatement district has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather, including parks, golf course positions and irrigation positions; or
  - (i) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an



optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again



becomes an employee. Provided, if a member fails to again become an employee as a result of his death while in active duty service, the member shall be entitled to military service through the date of death. Provided further, if a member fails to again become an employee due to a disability retirement resulting from service in the armed forces of the United States, the member shall be entitled to military service through the date the disability allowance becomes payable. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24)(a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31)(A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(c) Differential wage payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(d) Employer payments to employees for or related to travel, mileage, meals, lodging or subsistence expenses, without regard to the taxability of such payments for federal income tax purposes and without regard to the form of payment, including payment made as reimbursement of an itemized expense voucher and payment made of an unvouchered expense allowance.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

- (a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or
  - (b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or
  - (c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and
  - (d) Was not covered by a merit system for employees of the state of Idaho, is vested without regard to the length of credited service.
- (37) The masculine pronoun, wherever used, shall include the feminine pronoun.

#### History.

1963, ch. 349, Art. 1, § 2, p. 988; am. 1965, ch. 265, § 1, p. 682; am. 1967, ch. 398, § 1, p. 1184; am. 1969, ch. 283, § 1, p. 856; am. 1969, ch. 460, § 1, p. 1288; am. 1970, ch. 153, § 1, p. 473; am. 1971, ch. 49, § 1, p. 105; am. 1972, ch. 245, § 1, p. 636; am. 1974, ch. 57, § 2, p. 1118; am. 1975, ch. 217, § 1, p. 604; am. 1976, ch. 97, § 1, p. 403; am. 1979, ch. 158, § 1, p. 478; am. 1984, ch. 132, § 1, p. 308; am. 1985, ch. 84, § 1, p. 164; am. 1986, ch. 147, § 1, p. 409; am. 1987, ch. 346, § 1, p. 735; am. 1989, ch. 189, § 1, p. 465; am. 1989, ch. 190, § 1, p. 469; am. 1990, ch. 130, § 1, p. 300; am. 1990, ch. 231, § 2, p. 611; am. 1990, ch. 249, § 1, p. 702; am. 1991, ch. 61, § 1, p. 140; am. 1992, ch. 220, § 1, p. 658; am. 1992, ch. 342, § 1, p.

1037; am. 1993, ch. 350, § 2, p. 1295; am. 1994, ch. 209, § 1, p. 658; am. 1994, ch. 276, § 1, p. 856; am. 1994, ch. 411, § 1, p. 1296; am. 1995, ch. 143, § 1, p. 606; am. 1996, ch. 59, § 1, p. 170; am. 1996, ch. 79, § 1, p. 252; am. 1996, ch. 112, § 1, p. 415; am. 1997, ch. 72, § 1, p. 148; am. 1997, ch. 218, § 1, p. 642; am. 1998, ch. 22, § 1, p. 128; am. 1999, ch. 198, § 1, p. 508; am. 1999, ch. 199, § 1, p. 519; am. 1999, ch. 329, § 39, p. 852; am. 2002, ch. 46, § 1, p. 101; am. 2004, ch. 232, § 1, p. 679; am. 2004, ch. 294, § 1, p. 818; am. 2007, ch. 44, § 1, p. 105; am. 2010, ch. 143, § 1, p. 300; am. 2010, ch. 182, § 1, p. 371; am. 2011, ch. 100, §§ 1, 2, 3, p. 240; am. 2012, ch. 31, § 1, p. 90; am. 2012, ch. 217, § 1, p. 590; am. 2013, ch. 187, § 13, p. 447.

### STATUTORY NOTES

#### Amendments.

The 2013 amendment, by ch. 187, in paragraph (14)(f), substituted "director of the of-

fice of personnel management" for "United States civil service commission."

**59-1324. Transfer of moneys from state community college account.** — After July 1, 1984, the state board of education shall, at the request of the board, direct the transfer from the state community college account or from appropriations made for that purpose to the public employee retirement account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-1322, Idaho Code, required with respect to employees of community college districts on the basis of salaries paid such employees as certified by the board to the state treasurer.

#### History.

I.C., § 59-1332B, as added by 1969, ch. 144, § 4, p. 466; am. 1984, ch. 180, § 6, p. 426; am.

and redesign. 1990, ch. 231, § 20, p. 611; am. 2013, ch. 187, § 14, p. 447.



### STATUTORY NOTES

#### Amendments.

The 2013 amendment, by ch. 187, substituted “state community college account” for

“state junior college account” in the section heading and twice in the section.

**59-1391. Definitions.** — As used in sections 59-1391 through and including 59-1399, Idaho Code, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) “Board” means the retirement board of the employee system.

(b) “Firefighter member” means a person or beneficiary who, prior to October 1, 1980, was receiving benefits or establishing the right to receive benefits from the firefighters’ retirement fund.

(c) “Firefighters’ retirement fund” means the retirement system created by and existing pursuant to chapter 14, title 72, Idaho Code.

(d) “Employee system” means the retirement system created and existing pursuant to chapter 13, title 59, Idaho Code.

(e) “Employer” means a city or fire district that employs paid firefighters who are participating in the firefighters’ retirement fund on October 1, 1980.

(f) “Paid firefighter” means any individual, male or female, excluding office secretaries on the payroll of any city or fire district in the state of Idaho who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

#### History.

I.C., § 59-1351, as added by 1979, ch. 147, § 1, p. 452; am. 1980, ch. 50, § 39, p. 79; am.

1984, ch. 132, § 8, p. 308; am. and redesign. 1990, ch. 231, § 61, p. 611; am. 1990, ch. 249, § 9, p. 702; am. 2013, ch. 187, § 15, p. 447.

### STATUTORY NOTES

#### Amendments.

The 2013 amendment, by ch. 187, deleted surplus language in the section, resultant

from the reconciliation of two 1990 amendments.

# TITLE 61

## PUBLIC UTILITY REGULATION

### CHAPTER.

6. PROCEDURE BEFORE COMMISSION AND IN  
COURTS, §§ 61-622, 61-623.

## CHAPTER 6

### PROCEDURE BEFORE COMMISSION AND IN COURTS

#### SECTION.

61-622. Finding of commission necessary for  
increase in rate and approval  
of a new tariff or schedule —  
Suspension.

#### SECTION.

61-623. Determination of schedule and regu-  
lar rates. [Repealed.]

**61-622. Finding of commission necessary for increase in rate and approval of a new tariff or schedule — Suspension.** — (1) No public utility shall raise any existing rate, fare, toll, rental or charge or so alter any existing classification, contract, practice, rule, service or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

(2) Whenever there shall be filed with the commission any tariff or schedule stating a new individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation that does not increase or result in the increase of any existing rate, fare, toll, rental or charge, such tariff or schedule shall not become effective except upon a showing to and a finding by the commission that such tariff or schedule is justified.

(3) The commission shall have power and is hereby given authority to suspend the proposed effective date of any new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities. The commission shall provide reasonable notice that it intends to conduct a hearing or other proceeding concerning the propriety of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation. Pending the subsequent hearing or proceeding and decision thereon, such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not go into effect.

(4) The period of suspension of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not extend beyond thirty (30) days when such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service

or regulation would otherwise go into effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, nor unless the commission after a showing of good cause on the record grants an additional sixty (60) days. Prior to the expiration of said periods of suspension the commission may, with the consent in writing signed by the party filing such new tariff or schedule, permanently or further suspend the same.

(5) After such hearing or other proceeding during the suspension period, the commission shall issue its order approving, denying or amending the proposed tariffs, schedules, rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, services or regulations in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable.

**History.** 1975, ch. 81, § 1, p. 166; am. 1976, ch. 263, § 1, p. 887; am. 2013, ch. 193, § 1, p. 476.  
1913, ch. 61, § 59a, p. 247; reen. C.L. § 106:131; C.S., § 2499; I.C.A., § 59-622; am.

STATUTORY NOTES

**Amendments.** the section to the extent that a detailed comparison is impracticable.  
The 2013 amendment, by ch. 193, rewrote

**61-623. Determination of schedule and regular rates. [Repealed.]**  
Repealed by S.L. 2013, ch. 193, § 2, effective July 1, 2013. For present comparable provisions, see § 61-622.

**History.** 106:132; C.S., § 2500; am. 1927, ch. 184, § 1, p. 247; I.C.A., § 59-623.  
1913, ch. 61, § 59b, p. 247; reen. C.L.



